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No. 91-560

In The

Supreme Court of the United States

October Term, 1991

SILAS ALEXANDER, et al.

v.

CHICAGO PARK DISTRICT, et al.

Petition For A Writ Of Certiorari To The United States Court Of Appeals For The Seventh Circuit

RESPONDENT'S BRIEF IN OPPOSITION

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Count II Subclass

Dated: February 11, 1992

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STATEMENT OF THE CASE

In their Petition for a Writ of Certiorari, Petitioners Rufus Cook and Cook Partners Law Offices, Ltd. (collectively "Cook") seek review of the decision of the United States Court of Appeals for the Seventh Circuit affirming the district court's (1) October 4, 1989 order directing Cook to pay to Respondent Count II Subclass the full amounts due and owing from a settlement fund; and (2) April 12, 1990 order holding Cook in civil contempt for failing to comply with the October 4, 1989 order.

Since the filing of the Petition for Writ of Certiorari, Cook and the Count II Subclass have entered into a

settlement agreement resolving all claims and disputes between them. On January 21, 1992, the district court approved the settlement and entered an Agreed Order in which it (1) vacated the civil contempt finding entered against Cook; (2) vacated the civil contempt fines imposed on Cook; and (3) dismissed with prejudice all claims that the Count II Subclass had against Cook. *See* Appendix (attached).

REASONS TO DENY THE PETITION FOR A WRIT OF CERTIORARI

THERE IS NO LONGER ANY CASE OR CONTROVERSY BECAUSE THE PARTIES HAVE SETTLED THE UNDERLYING DISPUTE AND THE DISTRICT COURT HAS VACATED THE CIVIL CONTEMPT FINDING AND THE FINES AGAINST PETITIONERS.

Cook and the Count II Subclass have fully and finally settled the dispute underlying the district court's orders that were the subject of the court of appeals' decision and are the subject of Cook's Petition. The district court has dismissed with prejudice the Count II Subclass' claims against Cook and has vacated the contempt finding and fines it had imposed. The Count II Subclass has no further interest in this matter.[1] Accordingly, the issues Cook

[1] The settlement agreement between Cook and the Count II Subclass provided that, although Cook did not agree to dismiss the Petition to this Court, Cook would have no right to recover sums paid to the Count II Subclass in settlement regardless of any future decisions of this Court or any court on remand.

seeks to present to this Court are moot. There is no case or controversy, and the Petition for Writ of Certiorari should be denied.

CONCLUSION

For all these reasons, Respondent Count II Subclass respectfully requests that this Court deny the Petition for Writ of Certiorari.

Respectfully submitted,

JAMES S. WHITEHEAD
Counsel of Record

SCOTT E. GROSS

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One First National Plaza
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Counsel for Respondent
Count II Subclass

Dated: February 11, 1992

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SILAS ALEXANDER, *et al.*, *Plaintiffs,*	)	No. 79 C 2242
v.	)	Judge Rovner
CHICAGO PARK DISTRICT, *et al.*, *Defendants.*	)	

AGREED ORDER

This matter comes on to be heard on the Joint Motion to Approve Settlement submitted by counsel for Rufus Cook and Cook Partners Law Offices, Ltd. (collectively "Cook") and counsel for the Count II Subclass.

1. The Court has reviewed the terms of the attached Settlement Agreement and Release submitted by the parties. The Court has been informed that each of the nineteen (19) members of the Count II Subclass has been fully informed of the terms of the settlement, has approved such terms and has requested the Court, through counsel, to enter this order in order to effectuate the settlement.

2. Each member of the Count II Subclass has executed a Waiver of Fairness Hearing, copies of which have been provided the Court, in which he/she waives any right to have the Court conduct a fairness hearing in connection with the settlement, states that he/she has been fully advised concerning the terms and conditions of the proposed settlement and has reviewed a copy of the proposed Settlement Agreement and Release, states

that the settlement is fair and is in the class member's best interests, and states that he/she has instructed counsel for the Count II Subclass to move forward to implement the settlement on the terms and conditions set forth in the Settlement Agreement and Release.

3. Counsel for the Count II Subclass has informed the Court that Cook has delivered to counsel for the Count II Subclass the total amount of Two Hundred Twenty-One Thousand Two Hundred Ninety-Four and 32/00 dollars ($221,294.32) in the form of nineteen separate checks, one check to the order of each of the nineteen members of the Count II Subclass in the amounts set forth in the Settlement Agreement and Release.

4. In accordance with the terms of the settlement, the Court hereby finds that Cook, through his/its compliance with the terms of the Settlement Agreement and Release, will have purged himself/itself of the civil contempt finding entered by this Court on April 12, 1990.

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

a. The civil contempt finding entered against Cook in the Court's order dated April 12, 1990, is hereby vacated;

b. The civil contempt fine imposed on Cook in the Court's order dated April 12, 1990, is hereby vacated;

c. The claims of the Count II Subclass against Cook are hereby dismissed with prejudice.

/s/ Ilana D. Rovner
U.S. District Judge

Enter: January 21, 1992